

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA
FILED

SEP 13 2005

JOHN F. CORCORAN, CLERK
BY: *[Signature]*
DEPUTY CLERK

ROBERT N. STEMMER, III,

Plaintiff,

v.

DENNIS P. MCINERNEY,

Defendant.

CIVIL ACTION NO. 6:05CV00011

ORDER AND OPINION

JUDGE NORMAN K. MOON

Plaintiff, who is *pro se*, filed the Complaint in this case on April 12, 2005. According to Federal Rule of Civil Procedure 4(m): "If a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time" Fed. R. Civ. P. 4(m). In accordance with this rule, Plaintiff was required to serve Defendants by August 10, 2005. Plaintiff did not serve Defendants within this time period. On August 5, 2005, the Court issued a 100-Day Notice to Plaintiff, giving Plaintiff until August 25, 2005, to notify the Court that service had been accomplished on Defendants in order to avoid dismissal. Plaintiff has not responded to the 100-Day Notice within the required time period. Accordingly, pursuant to Federal Rule of Civil Procedure 4(m), this case is DISMISSED WITHOUT PREJUDICE.

It is so ORDERED.

The Clerk of the Court is directed to send certified copies of this Order to all Counsel of Record. The Clerk of the Court is further instructed to STRIKE this case from the docket.

ENTERED: *Thomas C. Moran*
U.S. District Judge
Sept. 13, 2005
Date